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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR           | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/464,582  | 12/16/1999  | NELS LAURITZEN                 | PPC-694             | 7760             |
| 7590 01/28/2004   |             |                                |                     |                  |
| AUDLEY A CIAMPORCERO JR<br>ONE JOHNSON & JOHNSON PLAZA<br>NEW BRUNSWICK, NJ 089337003 |             | EXAMINER<br>KIDWELL, MICHELE M |                     |                  |
|   |             | ART UNIT PAPER NUMBER          |                     |                  |
|   |             | 3761 20                        |                     |                  |
| DATE MAILED: 01/28/2004   |             |                                |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/464,582

Applicant(s)

LAURITZEN, NELS

Examiner

Michele Kidwell

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3761

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9 and 13 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (US 5,607,416).

With respect to claim 1, Yamamoto et al. (hereinafter “Yamamoto”) discloses an integral disposable absorbent garment that may be worn about a human lower torso comprising a suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4), said suspension sling being suspendable in a wearer’s crotch region (col. 5, lines 32 – 35) and a waist belt (2) having a first belt end secured to the suspensions sling proximal end and a second belt end wherein the waist belt is capable of encircling a user’s waist with the suspension sling suspended in the wearer’s crotch region and the second belt end attached to the first belt end at the suspension sling proximal end as set forth in col. 5, lines 21 – 35.

As to claim 2, Yamamoto discloses a suspension sling comprising a liquid permeable topsheet, liquid impermeable backsheet associated with the topsheet and an

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absorbent structure positioned between the topsheet and the backsheet as set forth in col. 3, lines 30 – 33.

With regard to claims 3 and 4, Yamamoto discloses a garment wherein the suspension sling further comprises an elastic element disposed in at least one suspension sling side margin as set forth in col. 3, lines 51 – 61 and in figure 1.

As to claim 5, Yamamoto discloses the garment wherein the waist belt is elastically contractible as set forth in col. 4, lines 24 – 40.

With reference to claims 6 – 8, Yamamoto discloses the garment further comprising a waist belt attachment system as a pressure sensitive adhesive and a mechanical fastener as set forth in col. 4, lines 40 – 50.

As to claim 9, Yamamoto discloses the garment wherein the suspension sling distal end further comprises suspension sling fasteners as set forth in figure 1.

With respect to claim 13, Yamamoto discloses an absorbent garment that may be worn about a human lower torso comprising a reusable waist belt having a first and second belt end (figure 3) with a first sling attachment location proximate the first belt end and a second sling attachment location disposed between the first and second belt ends (figure 1) and a disposable suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4) wherein the suspension sling is attachable to the first and second sling attachment locations of the belt in a manner to suspend the suspension sling in a wearer's crotch (figure 1) and the

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waist belt (2) is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region as set forth in col. 5, lines 21 – 35.

Regarding claim 14, Yamamoto discloses a garment wherein the second sling attachment location is disposed approximately midway between the first and second belt ends as set forth in figure 1.

As to claim 15, Yamamoto discloses a garment wherein the waist belt and suspension sling comprise a belt closure system as set forth in col. 4, lines 40 – 50.

With reference to claim 16, Yamamoto discloses a garment wherein the belt closure system comprises closure system elements (col. 3, lines 30 – 38) at least at the first and second sling attachment locations and proximate the suspension sling distal and proximal ends (figure 1).

With respect to claim 17, Yamamoto discloses a garment wherein closure system elements join the first sling attachment location to the suspension sling proximal end as set forth in col. 3, lines 30 – 38 and in figure 1.

### ***Response to Arguments***

Applicant's arguments filed November 12, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the office action fails to set forth where Yamamoto discloses a waist belt having a first belt end secured to the suspension sling proximal end and a second belt end, the examiner again refers to figure 1 as referenced in the passage cited in the rejection of claim 1. Figure 1 shows the first belt end

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(considered by the examiner to be the end of the belt from 13a to the area just before reference numeral 2) secured to the suspension sling (6) and a second belt end shown by reference number 13b.

The examiner appreciates the applicant's submission of the definition of the word "end" and refers to such to reinforce the basis of the rejection. According to the definition of the word "end" submitted by the applicant, the "end" may be defined as "to form the end of". Taking such definition into the consideration, the examiner maintains the rejection in that the portion of the waist belt that has been referenced by the examiner in the preceding paragraph is secured to the "end" of the waist belt.

The claim language does not differentiate between the verb form and the noun form of the word "end", and the examiner contends that the pending rejection is proper and will be maintained.

Nevertheless, if the examiner considers the applicant's argument as a valid one and relies on the applicant's alleged relevant definition of the word "end", the examiner contends that Yamamoto continues to meet the claimed limitations because the end, or ultimate extent (one of definitions supplied by applicant) is considered to be the area just before reference character 2 as shown in figure 1.

In response to the applicant's arguments that Yamamoto fails to teach a reusable waist band and a disposable pad member, the examiner disagrees. The reusable waist belt (3) is supplied with a Velcro® fastener (col. 4, lines 40 – 47). This type of fastener allows the waist belt to be reusable in the sense that the article can be repeatedly fastened and refastened in order to be adjusted, taken off and put back on, etc.

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The pad member of the garment is disposable as set forth in the abstract.

Lastly, the examiner notes that the previous response regarding the garment being capable of being attached to an attachment location was directed to the applicant's argument that the Office Action failed to set forth a pad member end that is attached to an attachment location proximate the first belt end (see page 6, last paragraph of applicant's response dated November 12, 2003).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0858.

  
Michele Kidwell  
January 22, 2004

  
**GLENN K. DAWSON**  
**PRIMARY EXAMINER**